

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7594 OF 2005

Sham Narayan Raut .. Petitioner
versus

1. Shripat Munjaji Shealke & anr. Respondents

Mr.V.V.Gangurde for Petitioner

CORAM : D.G.KARNIK, J

DATED : 27th February, 2006

P.C.

1. Heard learned counsel for the petitioner. Learned counsel for the petitioner states that the initial order of appointment of an Arbitrator was passed on 7th November, 2002 by the Civil Judge, Senior Division, Malegaon. Under section 11 of the Arbitration and Conciliation Act the Civil Judge, Senior Division has no power of appointment of an Arbitrator. In the circumstances, the order of appointment of the Arbitrator itself was improper.

2. Even otherwise the learned Judge has come to the conclusion that the petitioner-defendant had

no desire to refer the dispute to arbitration, had not taken steps for obtaining the consent of the Arbitrator nor had paid the fees of the Arbitrator. In the circumstances, I am satisfied that the finding reached by the trial Court that the defendant had no real desire to refer the dispute to arbitration but want to only prolong the matter is a correct finding reached by the Court. Hence, no interference is called for in exercise of writ jurisdiction. The Writ Petition is rejected summarily.

(D.G. KARNIK, J)

rng.